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IN THE

Supreme Court of the United States

October Term, 1969

JOHN F. DAVIS, CLERK

No. 540

JULIA ROSADO, LYDIA HERNANDEZ, MAJORIE MILEY, SOPHIA ABROM, RUBY GATHERS, LOUISE LOWMAN, EULA MAE KING, CATHRYN FOLK, ANNIE LOU PHILLIPS, and MAJORIE DUFFY, individually, on behalf of their minor children, and on behalf of all other persons similarly situated,

Petitioners,

against

GEORGE K. WYMAN, individually and in his capacity as Commissioner of Social Services for the State of New York, and the DEPARTMENT OF SOCIAL SERVICES FOR THE STATE OF NEW YORK,

Respondents.

On Writ of Certiorari to the United States Court of Appeals
for the Second Circuit

BRIEF AMICI CURIAE FOR THE CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW YORK, CATHOLIC CHARITIES, DIOCESE OF BROOKLYN, COMMUNITY SERVICE SOCIETY OF NEW YORK, FEDERATION OF JEWISH PHILANTHROPIES OF NEW YORK, FEDERATION OF PROTESTANT WELFARE AGENCIES

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TION OF PROTESTANT WELFARE AGENCIES**

Interest of the *Amici*

The Catholic Charities of the Archdiocese of New York was incorporated in 1917 as a charitable federation for the broad purpose of serving the poor and aiding and coordinating the varied health and welfare programs of the Archdiocese which had their beginnings as early as 1817. This federation, together with its 203 affiliated agencies expended in 1968 over \$180,000,000 in services for needy families, children and youth, the sick, aged and handicapped. It operates a comprehensive range of health and welfare programs including personal and family counselling, homemaker and community services, general and special hospitals, nursing homes and homes for the aged, institutional, foster home and adoption programs for children, special services for the handicapped, residences, day care centers, children's camps and programs for citizenship training and character development of youth.

Catholic Charities, Diocese of Brooklyn was incorporated in 1931, but its predecessor agency dates from 1889. It, and its 31 member agencies spent about \$54 million in 1968 serving the poor, blind, deaf, retarded, handicapped, aged, troubled, and sick. These services were provided through counseling centers, child care agencies, hospitals, homes for the aged, etc.

Community Service Society of New York is the product of a merger in 1939 of the Association for Improving the Conditions of The Poor and the Charity Organization Society, both of which organizations were created in the 1840's. Spending almost \$5 million annually, its 500 employees provide casework services, group therapy, home-

maker services, a residence for older persons, research in family life and social action in the fields of family and child welfare, housing and urban development, health, aging, youth and correction and family life education.

The Federation of Jewish Philanthropies of New York was organized in 1917 and is the coordinating agency in New York City for Jewish social work. Together with its more than 130 affiliated agencies, more than \$250,000,000 is spent annually in providing a complete range of health and welfare services through institutions such as general hospitals, an orthopedic hospital, a hospital for the mentally ill, a hospital for the physically handicapped children, family service agencies, vocational rehabilitation agencies, child care agencies, foster homes and treatment facilities for dependent, emotionally disturbed and mentally retarded children, homes for the aged, community centers, camps, etc.

Federation of Protestant Welfare Agencies was organized in 1921 and now has 235 member agencies. Together, they spend more than \$100,000,000 each year for child welfare agencies, nursery schools, day care centers, camps, treatment centers for disturbed children and for delinquents, neighborhood youth centers, vocational guidance, mental health clinics, narcotics treatment facilities, maternity shelters, homemaker services, family counseling, neighborhood, social recreational and social activities, homes for the aged, etc.

Amici and their affiliates combined, serve more than three million New Yorkers each year. They have had a long-standing concern for and familiarity with the prob-

lems for the poor in New York City and State, especially those in receipt of Aid to Families with Dependent Children. The citizen members and professional staffs include physicians, psychiatrists, nurses, psychologists, social workers, clergy, attorneys, and others familiar with the problems of the poor. As the representatives of the major portion of the voluntary health and welfare groups in the City of New York, *amici* respectfully present their views on behalf of the AFDC recipients upon the case before the Court.

Amici have limited their argument to a documentation of the conditions of which Congress was aware in passing 42 U.S.C. §602(a)(23) and the nature of the damage resulting from New York's non-compliance therewith. They are however, in complete agreement with and subscribe to the other points raised by petitioners in their brief.

The parties have consented to the filing of this *amicus curiae* brief and copies of their letters of consent will be submitted to the Clerk with the brief.

Summary of the Argument

Congress' enactment in 1935 of what is now known as the Aid to Families with Dependent Children program and 42 U.S.C. 602(a)(23), a 1968 amendment to that program, were both intended to minimize or eliminate what the Congress knew to be the incalculable and permanent consequences of long-term poverty on children, families and society in general.

In enacting §131-a of the New York Social Services Law, the New York State Legislature ignored, in fact violated

the requirement of said 42 U.S.C. 602(a)(23) to increase grants to AFDC recipients to reflect fully increases in the cost-of-living to July 1, 1969. As a result, the hardships, suffering and injury which Congress sought to forestall have been compounded in New York State.

The higher mortality and morbidity rates of the poor, the greater frequency of illness, disability, chronic conditions and malnutrition among them, attest to the close relationship between poverty and physical health. The larger presence among the poor of mental retardation and serious emotional disorders speaks to the consequences of poverty for mental health. The absence of conditions conducive to sound child development among the poor results in significantly lower levels of educational achievement and significantly higher numbers of persons unable to function productively as adults. The pressures of severe economic deprivation on all family members reduces appreciably the chances of sound family life and relationships. And the gap between the poor and the highly-visible rest of society serves to perpetuate the cycle of poverty by deepening the despair and hopelessness felt by the poor. All these circumstances not only have a visible effect upon the poor, but also on the well-being of the entire society.

Desiring to help AFDC recipients to catch up to the increased cost-of-living by increasing their grants accordingly, the Congress, as of early 1968, enacted 42 U.S.C. 602 (a)(23). It sought, by this device, to minimize the effects of severe deprivation on present and future generations, at least until major revisions in public income maintenance programs were undertaken.

The evidence is clear that the intent of the New York State Legislature in enacting §131-a was anything but consistent with that of the Congress. They sought merely to reduce welfare costs without considering the consequences of such reductions upon the poor.

The effect of these cutbacks is demonstrated over and over again in the files and records of *amici* and their affiliated agencies. That already inadequate AFDC grants have been further reduced, with the predictable, but nonetheless deplorable, results is also apparent. That other public programs upon which the poor depend are inadequate to fill the vacuum further intensifies the hardships.

POINT I

Aware of the well-documented body of empirical and theoretical evidence that a real connection exists between poverty and individual, familial and societal pathology, Congress initiated the Aid to Dependent Children (now known as Aid to Families with Dependent Children) program in 1935 and amended it in 1967 to render it more effective.

A. Relationship of Poverty to Pathology

Poverty, especially persistent poverty, affects every aspect of a person's life: his physical and mental health, his development as a child, his family relationships and his relationship to the society around him. And the consequences of poverty in turn intensify each other so that once the chain reaction has begun it is extremely difficult to avoid the irremedial harm which follows and the incalculable toll it takes in human life and suffering.

1. *Physical Health*

The symbiotic relationship between poverty and ill health clearly exists in the slums of large cities in the United States.

Mortality rates, especially during infancy, childhood, and even the younger adult ages, are higher here than for the rest of the population again, and this most important, *especially* mortality rates from the communicable diseases.¹

* * * the prevalence of morbidity, impairments, and disability is probably highest * * * among the poverty population for the relatively severe conditions, particularly chronic conditions causing activity restriction for long periods of time. This follows from the higher prevalence of severe communicable diseases as causes of death in the poverty population. However, unlike the situation as regards mortality, where poverty population death rates are higher *during the younger years*, the prevalence of morbidity, impairment, and disability is likely to be higher for the poverty population especially during the later years of mid-life and old age.²

Twenty-nine percent of persons with family incomes less than \$2,000 have chronic conditions which limit their activity as compared to about 7.5 percent in families with incomes above \$7,000. Even in the age 17-44 group, the poor are affected at twice the rate of the non-poor; in the age 45-64 year old males, the lower income group has three and one-half times as many disability days. A higher per-

1. Lerner, *The Level of Physical Health of the Poverty Population: A Conceptual Reappraisal of Structural Factors*, 6 MEDICAL CARE 361 (1968).

2. *Id.* at 363.

cent of persons in poor families have "multiple hospital episodes" and they stay in the hospital longer (10.2 days as compared to 7.3 days). They are more often hospitalized for non-surgical conditions than the non-poor, though they are much less likely to have hospital insurance. Poor children under 15 visit physicians twice a year as compared to 4.4 times for the non-poor; 22 percent have never seen a dentist as compared to 7.2 percent in families with incomes over \$10,000.³

Many of the illnesses which the urban poor suffer relate directly to their living conditions. Acute respiratory infections (colds, bronchitis, grippe), infectious diseases of childhood (measles, chicken-pox, whooping cough), minor digestive diseases and enteritis (typhoid, dysentery, diarrhea), injuries from home accidents, skin diseases, lead poisoning in children from eating scaling paint, pneumonia and tuberculosis are typical of the physical illness of the poor.⁴

Furthermore, other diseases and disabilities not apparently related to the physical environment are more common among the poor: degenerative diseases, particularly cardiovascular disorders, chronic diseases such as heart disease and diabetes mellitus, cancer, premature births.⁵

• • • the more easily recognizable and more serious types of chronic illness, including paralysis and ortho-

3. UNITED STATES DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, DELIVERY OF HEALTH SERVICES FOR THE POOR at 3-4 (1967).

4. SCHORR, SLUMS AND SOCIAL INSECURITY 13-14 (1963).

5. Irelan, *Health Practices of the Poor*, Welfare in Review, Oct. 1965, p. 3.

pedic impairments, accounted for 13.8 percent of reported chronic conditions for the lowest income group as compared with 9.7 for those at the top of the income scale. Even more striking are the differences between the poor and the rich when it comes to visual and hearing impairments. Such handicaps accounted for 12.4 percent of the chronic conditions reported for the \$2,000 group, but only 6.4 percent of such conditions in the group with an income of \$7,000 and over.

The role of nutrition in the health of the poor is well understood. Low hemoglobin levels and anemia occur with greater frequency among the poor.⁷ Caloric (quantitative) or nutritive (qualitative) deficiencies or both can cause malnutrition. Carbohydrates can, relatively cheaply and quickly, provide calories and energy, but they cannot provide the proteins necessary for proper nutrition.⁸ Obesity is a more frequent condition among the poor than among the non-poor.

2. Mental Health

There is a striking correlation between poverty and mental retardation.

The majority of the mentally retarded are the children of the more disadvantaged classes of our society. This extraordinarily heavy prevalence in certain deprived population groups suggests a major causative role, in some way not yet fully delineated, for adverse social, economic and cultural factors. These conditions

6. Coll, *Deprivation in Childhood: Its Relation to the Cycle of Poverty*, Welfare in Review, Mar. 1965, p. 4.

7. Hillman & Smith, *Hemoglobin Patterns in Low-Income Families*, 83 PUBLIC HEALTH REPORTS 65 (1967).

8. *Id.* at 3.

may not only mean absence of the physical necessities of life, but the lack of opportunity and motivation. A number of experiments with the education of presumably retarded children from slum neighborhoods strongly suggest that a predominant cause of mental retardation may be the lack of learning opportunities or absence of "intellectual vitamins" under these adverse environmental conditions. Deprivation in childhood of opportunities for learning intellectual skills, childhood emotional disorders which interfere with learning, or obscure motivational factors appear somehow to stunt young people intellectually during their developmental period. Whether the causes of retardation in a specific individual may turn out to be biomedical or environmental in character, there is highly suggestive evidence that the root causes of a great part of the problem of mental retardation are to be found in bad social and economic conditions as they affect individuals and families * * *.⁹

A variety of circumstances, all typical of the lives of the poor have been found to lead to mental retardation. There is a close relationship between inadequate prenatal care, typical for the poor, premature births, likewise typical,¹⁰ and consequent mental retardation.¹¹

In both whites and Negroes, the incidence of prematurity became extremely high the lower the socioeconomic class * * * this [the higher rates for Negroes]

9. REPORT OF THE PRESIDENT'S PANEL ON MENTAL RETARDATION, A PROPOSED PROGRAM FOR NATIONAL ACTION TO COMBAT MENTAL RETARDATION, at 8-9 (1962); see REPORT OF THE PRESIDENT'S COMMITTEE ON MENTAL RETARDATION, MR-68—THE EDGE OF CHANGE, at 19 (1968).

10. REPORT OF PRESIDENT'S COMMITTEE, *supra* note 9.

11. Address by Lawrence Goodman, American Association on Mental Deficiency Conference, May 16, 1969.

was not a function so much of the Negro as a somewhat racially distinct group, but was more the heritage of prolonged disadvantage in the areas of general health, medical care, education, and nutrition.¹²

Various studies point to the relationship between nutrition and brain growth,¹³ maternal malnutrition and toxemia and prematurity,¹⁴ and to the functional integrity of the offspring's nervous system.¹⁵

Given the environmental causes of much mental retardation, one final fact bears noting:

Unlike other major afflictions, such as cancer or heart disease, which often come relatively late in life, mental retardation typically appears in childhood and always before adulthood. And once incurred, it is essentially a permanent handicap, at least at the present stage of biomedical knowledge.¹⁶

But mental retardation is not the only mental health consequence of poverty.

* * * emotional upset is one of the main forms of the vicious circle of impoverishment. The structure of the

12. REPORT OF THE FIRST CONFERENCE ON MENTAL RETARDATION, MILD MENTAL RETARDATION IN INFANCY AND EARLY CHILDHOOD, at 28 (Simmons ed. 1966).

13. Fernandez, et al., *Nutritional Status of People in Isolated Areas of Puerto Rico*, 12 AMERICAN J. CLINICAL NUTRITION (1965); Brown, *Organ Weight in Malnutrition With Special Reference to Brain Weight*, 8 DEVELOP. MED. CHILD NEUROL. (1966).

14. REPORT OF THE FIRST CONFERENCE ON MENTAL RETARDATION, *supra* note 12, at 30.

15. Warkany & Wilson, *Prenatal Effects of Nutrition on the Development of the Nervous System*, in GENETICS AND THE INHERITANCE OF INTEGRATED NEUROLOGICAL AND PSYCHIATRIC PROBLEMS (Hooker & Have eds. 1954).

16. REPORT OF THE PRESIDENT'S PANEL, *supra* note 9, at 10.

society is hostile to these people * * * the poor tend to become pessimistic and depressed; they seek immediate gratification instead of saving; they act out.¹⁷

The classic study *Social Class and Mental Illness* by Hollingshead and Redlich¹⁸ discloses that the poor's rate of "treated psychiatric illness" is about three times as high as the average for the other social classes. Furthermore, of those who had received some psychiatric treatment, 65 percent in the top four classes (out of five) had been treated for neurotic problems, the rest for psychotic disturbances. Among the poor, 90 percent of those treated had psychotic problems.

What happens to the psyche of the impoverished individual that accounts for the large amount of emotional disturbance that appears to exist?

It is hypothesized that emotional depression may be the prevalent life style of many lower-lower-class members and that this depression (if such it is) has its origins in overwhelming anxiety associated with the almost constant powerful frustrations and threats which surround the slum-dweller from infancy to old age. While both research and theory point to the positive contribution of mild frustration and associated mild anxiety to achievement and to ego-strength, constant and overpowering frustrations make achievement an untenable goal and seriously weaken the ego—or self-esteem * * *

With generally less ego strength (lower self-esteem), the very poor individual is apt to have

17. HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* 138 (1962).

18. (1958).

greater need than his middle-class counterpart for security-giving psychological defenses. But defenses such as sublimation, rationalization, identification with the larger community and its leaders, compensation, idealization, and substitution of generally accepted gratifications are not so readily available to him in his impoverished, constricted environment and with his own lack of economic and intellectual resources. * * * for instance, the lower-class adolescent tends to use defense mechanisms in handling aggressive drives and failure fears which require little previous experience, involve maximum distortion, and create social difficulties, whereas middle-class children are more apt to use defense mechanisms which require many skills involve a minimum of distortion and are socially acceptable. * * *

Since the pressures on the lower-lower-class male for unobtainable, occupational success are greater than on the female, it is hypothesized that depressive reactions, confusion over identity, and recourse to the various mechanisms for self-expressive escape would probably occur in a higher proportion of men and to a more pervasive degree. The higher rates among males (especially in the lower-lower-class) of mental illness, alcoholism, drug addiction, crime and delinquency are, perhaps, associated, at least in part, with factors such as these.¹⁹

For the most part, in AFDC families the mother is the only parent in the home. Even if she had been legally married to the father a severe burden falls upon her. She must fulfill both parental roles with their heavy demands.

These demands are overcast and suffered by the emotional impact of the loss or absence of the father on the mother and children. Shifting of roles com-

19. CHILMAN, GROWING UP POOR 31-33 (1966).

bined with the immediacy of inadequate income can play into dependency needs and can be used to feed neurotic tendencies in mothers and their children.²⁰

These difficulties are further intensified when the parent is an unmarried mother. The public image of such AFDC mothers, manifested by periodic attacks in the press, as irresponsible and immoral, has its effects psychologically:

an apathy or resignation, which is the end product of hopelessness, a lowered sense of self-esteem and worth, the product of being held in small account by others, and a heightened sense of being an outsider to the larger society. Sometimes the outcast manages her feelings by indifference, clowning, self-depreciation. Sometimes she strikes out blindly against those who, to her, represent the "ins". * * *

Other social and psychological stresses accompany economic stress. The unmarried mother who keeps her baby finds few avenues of self-expression and pleasure open to her. She is homebound with the care of her baby or she is neglectful of him. She has no husband to whom to express her aggravation or boredom. The baby more often than not causes her to lose a man who might have been a husband someday, if her pregnancy and its consequences had not scared him off, or to lose a man who gave her some sense that she was wanted. So the baby often represents the fruit of her badness or foolishness as well as the betrayal by the man who got her into trouble. Mothering rarely flows warmly and dependably toward the baby thus ruefully or angrily borne.²¹

20. Address by Eunice L. Minton, National Conference on Social Welfare, May 11-16, 1958.

21. Perlman, *Unmarried Mothers*, in *SOCIAL WORK AND SOCIAL PROBLEMS* 275-276 (Cohen ed. 1964); see McCabe, *Re: Forty Forgotten Families*, 24 *PUBLIC WELFARE* 161-163 (1966).

3. *Child Development*

It is in children that some of the most damaging consequences of poverty can be found. Whether it be from malnutrition, other disease, marital tensions, emotional upset in the home or any other of the common occurrences in the poverty-stricken home, the children of that home suffer deeply.

The infant * * * has three sources of security that enable him to feel safe and, therefore, to experience a satisfying relationship with others: (1) consistent physical care and conditions conducive to good health requisite to a feeling of well-being, (2) uninterrupted opportunity to learn and reassuring encouragement to persist in learning through sympathetic attention to his hurts when his first learning efforts endanger his safety, (3) relationships in which he is loved.²²

But the malnourished infant is restless, irritable, hyperactive or apathetic. His crying and whining provokes his mother to show her annoyance by a scolding or a slap, "thus reinforcing the infant's feeling of being unloved."²³ The attention he thus receives prompts him to persist and, unless his mother changes her reaction, the child may become an aggressive, demanding person.

Economic security is important also from the standpoint that the mother, if anxious and harrassed, transmits her disturbed feelings to the infant, perhaps to an even greater extent than when the child is older.²⁴

22. TOWLE, COMMON HUMAN NEEDS 50 (rev. ed. 1965).

23. *Id.* at 6.

24. *Id.* at 54; see HERZOG, ABOUT THE POOR—SOME FACTS AND SOME FICTIONS 15 (Children's Bureau Pub. No. 451, 1967).

Because the children receiving AFDC are most often in one-parent homes where the full burden of child-rearing falls on the mother usually, and where the father's absence is itself a loss to the child, the children are "exposed to a greater hazard of having less than average opportunities for development."²⁵ The consequences of this deprivation may be either destructive activities or clinging to infantile behavior. Either course prevents the child from learning how to master his environment, so necessary to his stability in adult life.²⁶

The parental patterns more characteristic of the very poor, in reference to educational achievement, seem to be oriented towards an anticipation of failure, and a distrust of middle-class institutions, such as the schools. Constriction in experience, reliance on a physical rather than a verbal style, a rigid rather than flexible approach, preference for concrete rather than abstract thinking, reliance on personal attributes rather than training or skills, a tendency toward magical rather than scientific thinking: these values and attitudes provide poor preparation and support for many of the children of the very poor as they struggle to meet the demands of the middle-class oriented school.²⁷

This theory is borne out by the evidence. Although AFDC children start out on the same level as others, they fall behind so that at about 15 years of age they are a semester or more behind. At each age, a greater proportion of such children were "overage" for their grade, having failed a semester or more. Children who have failed

25. Meier, *Child Neglect*, in *SOCIAL WORK AND SOCIAL PROBLEMS*, *supra* note 21, at 192.

26. TOWLE, *supra* note 22, at 55-56.

27. CHILMAN, *supra* note 19, at 45.

are more likely to drop out.²⁸ That this has implications for their future independence as adults can be seen by the low level of educational achievement of AFDC mothers,²⁹ and the reduced chances for children's achievement if their parents' education level was low.³⁰

The adolescents in economically precarious families are subject to stresses in addition to those normally faced. At a time when they are experiencing a tension between their past dependency and their wish to be independent, the financial uncertainty of the family may cause them to

cling more tenaciously to the parents or, in the interests of survival, be compelled to escape the uncertainties of their family life through an abrupt and premature "cutting off." They may *needfully* assert their right to keep their own earnings and out of a tragic necessity pursue their own paths unhampered by the burden of the past.³¹

While having to confront the harsh realities of the adult world is not *per se* a destructive experience, having to do so all at once without adequate past preparation can be quite damaging.³²

Of crucial importance is the way in which the attenuation of values, confusion of identity, and depre-

28. Moles, *Training Children in Low-Income Families for School, Welfare in Review*, June 1965, pp. 1-2; see McCabe, *supra* note 21, at 166-167.

29. Coll, *supra* note 6, at 6-7.

30. Address by Herbert Bienstock, Conference on the Dimensions of Poverty, American Statistical Association, New York Chapter, March 11, 1965.

31. TOWLE, *supra* note 22, at 63.

32. *Id.* at 67-68.

ciation of self-esteem are transmitted from one generation to another. The sense of anonymity, of being the helpless instrument of irresistible and inaccessible social and economic forces, of injustice and anger, of apathy, of despair that conformity to any value system will make life more rewarding, all may have been experienced reactively by adults, as the cultural, political, economic, and social causes began to exert their influence. As these adults become parents, however, their helplessness, blurred sense of identity, and normlessness are presented to their children as models for identification. As the children identify with these aspects of the parents, confusion and normlessness are built into the personality structure of the children. The resulting damage will continue from generation to generation unless changes in the external society and culture intervene to break the cycle and afford new generations more effective models of identification.³³

4. *Family Life*

There is considerable evidence that the family structure and life of the poor is different from that of the non-poor. Separation, desertion and divorce appear to vary in frequency in inverse proportion to income; the same seems to be true for family size.³⁴ Further, families headed by women are far more frequent among the poor, as are out-of-wedlock births. Differences appear in child rearing

33. Lutz, *Marital Incompatibility*, in *SOCIAL WORK AND SOCIAL PROBLEMS*, *supra* note 21, at 104.

34. Epstein, *Some Effects of Low Income on Children and Their Families*, 24 *SOCIAL SECURITY BULLETIN* (Feb. 1961); Goode, *Economic Factors and Marital Stability*, 16 *AMERICAN SOCIOLOGICAL REVIEW* (Dec. 1951); Orshansky, *Recounting The Poor—A Five-Year Review*, 29 *SOCIAL SECURITY BULLETIN* (April 1966).

practices, with physical punishment and ridicule used more often by the poor.³⁵

To start with, we must keep in mind that above all else, people have minimum basic material needs—sufficient food and clothing, adequate living accommodations and medical care. These must be met. If people are in serious danger of losing the fight for survival they will be unable to use their energy and intellect for the things that enhance life, make it human and rich in heart, mind and spirit. With its basic material needs met, a family can devote its strength to efforts aimed at making itself as sound as possible.³⁶

The past and present circumstances of poor persons work against their chances for successful marital and family relationships.

Husbands and wives on the lowest socioeconomic level tend to have a poorer start in marriage than other couples and the same is true for their children. Many are high school dropouts (over half or more). One result of this is that they are likely to be forced into adult roles earlier than other adolescents. A young person out of school is not given the sanctions for adolescent behavior and the security of protection that students are given. This may be one reason that more of the very poor drift into marriage in their middle or late teens, often following a premarital pregnancy. Added to their youth, lack of education and poor preparation for marriage and parenthood, there is the

35. Bronfenbrenner, *Socialization and Social Class Through Time and Space*, in *READINGS IN SOCIAL PSYCHOLOGY* (3d ed. Maccoby, Newcomb and Hartley eds. 1958); Kohn, *Social Class and the Exercise of Parental Authority*, 24 *AMERICAN SOCIOLOGICAL REVIEW* (June 1959).

36. COMMUNITY SERVICE SOCIETY OF NEW YORK, *WHAT MAKES FOR STRONG FAMILY LIFE* (1958).

likelihood that the young husband will find either a very inadequate job or no job at all. The life experiences that such young couples have had growing up in their own homes and in the poverty environment offer seriously reduced opportunities for a satisfying, stable marriage and family life of their own.³⁷

What happens, psycho-socially, to families with inadequate funds has been considered by many experts in the field. There is general agreement that while inadequate funds will not alone destroy family life, it will tend to enlarge family difficulties. From the psychological perspective,

One may expect more regressive responses on the part of parents in families where there is economic strain. When regression occurs in the adult, it is not as normal an aspect of the growth process as it is in the adolescent. Because the demands of adult life are likely to be more consistently inescapable than those in adolescence and because the personality is more rigidly formed, retreats to more satisfying life periods of the past may bring a more lasting fixation.³⁸

Desertion is a not uncommon phenomenon in the families of the poor. While financial hardship may not be the most important cause of family breakdown, it is an effective fertilizer for the seeds of disruption.

If the partners are incompatible and do not have the same ideals and goals, the tension between them is likely to mount when they live in a cold or overcrowded home and when they do not have enough to eat or to wear. Worry about the future for themselves

37. CHILMAN, *supra* note 19, at 71.

38. TOWLE, *supra* note 22, at 85.

and their children adds to the strain. Desertion, therefore, may represent a desperate attempt on the part of the father to escape responsibilities he cannot meet and to find a means of personal survival.³⁹

For the families receiving public assistance, financial hardship is not significantly alleviated.

The grants support life and physical health if the recipient families manage them well. Indigent families are required to manage their funds more efficiently than everyone else in the population. The opportunity for some margin, some cushion, in the use of money is a powerful antidote to strain in interpersonal relations and intrapersonal conflict. The starkness and monotony of poverty contribute to despair and help to break down whatever abilities married people possess to perform the various functions of marriage, including the rendering of reciprocal emotional support and recognition.⁴⁰

The large amounts of extreme disability — of all kinds — in the public assistance caseload further complicate the family life of the recipients. Even though the effect is significant enough if it is a child who is disabled, the situation is even worse when it is a parent. Considering the inadequacy of the grant normally, having to balance the regular needs of the family and the special needs of the disabled person heightens the difficulty. "It is small wonder that frustration, hopelessness and family discord often accompany prolonged disability."⁴¹

39. FELDMAN, *THE FAMILY IN A MONEY WORLD* 67 (1957). Desertion among AFDC families is also caused by many States', though not New York's, refusal to provide such aid where the father is in the home.

40. Lutz, *supra* note 33, at 83-84.

41. Minton, *supra* note 20.

In sum, then

Marital incompatibility may be exacerbated * * * when grants are kept so low that they impair the health of the marital partners or precipitate disagreements between them over the ways in which the inadequate funds should be used * * *⁴²

5. Social Alienation

Because the poor have very little or no money they are placed at the bottom of society's classification scheme. Since the society tends to measure a person's worth and status by his money, the shortage of money implies a lower value-level for the poor. And since they do not have the content of living of most, the poor tend to be set apart; but they remain affected by the standards of living set by society.

It is an ironical socio-economic fact that the higher our standards of living go, the more the groups with low and fairly static income status becomes disadvantaged and isolated. The effects, therefore, are often a greater sense of personal inadequacy and failure.⁴³

For example, the poor do not participate in the social, charitable and fraternal organizations of the American society. And because we consider our society to be a classless one, few organizations are created along class lines. The result is that the poor person, feeling less able to participate, stays away.⁴⁴

42. Lutz, *supra* note 33, at 101.

43. Minton, *supra* note 20.

44. HARRINGTON, *supra* note 17, at 133-134.

The poor have the least voice in government. They lack the vocabulary, the clothes, the carfare, the knowledge, the self-confidence to move institutions to get things done. They lack the skills of knowing how to telephone the authorities, write letters, get up petitions, address public hearings, of whom to call or whom to ask for improvement in their services: better garbage collection, building code enforcement, police protection. * * *

The point is, the economically deprived are so far removed from the American standard of life that they no longer feel part of the larger society — they feel excluded, isolated, and alienated. The poor believe that they are unable to take advantage of the better things in life, some costing money, but others, like education, free. The best they can foresee is impermanent jobs, bad housing, inferior schools, and few of the conventional pleasures they continually see on television. Forced to live with others like themselves, they learn to accept standard services from police, clinics, schools, sanitation departments, landlords and merchants.⁴⁵

B. Congressional Purpose and Intent

Congress, in its initial passage of Aid to Families with Dependent Children legislation (Title 42 U.S.C. §§601-610), and later, in its amendment §602(a)(23) expressed a clear purpose. In its initiation of a program of comprehensive Federal grants to states who, in setting up state-wide programs of aid to dependent children complied with the requirements laid down in Title 42 of the United States Code §§601-610, Congress explicitly reveals its concern and intent.

45. Address by George K. Wyman, New York State Welfare Conference, Nov. 1968.

For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children. 42 U.S.C. 601.

It entered into this program with full recognition that while programs of public assistance were, in the first instance a state responsibility, the magnitude of the problems and their national impact required a federally-based scheme supported by federal monies. So that from 1935 on, and with regular and careful reviews up to 1968, Congress has been deeply involved and concerned with a program of aid for dependent children.

The State of New York instituted a program of aid to dependent children in 1937, expressing at all times an explicit purpose to comply with the Federal requirements. According to the New York State Social Services Law,

§358 Federal aid to dependent children.

The department shall submit the plan for aid to dependent children to the federal security agency or

other federal agency established by or for the purpose of administering the federal social security act for approval pursuant to the provisions of such federal act. The department shall act for the state in any negotiations relative to the submission and approval of such plan and make any arrangement which may be necessary to obtain and retain such approval and to secure for the state the benefits of the provisions of such federal act relating to aid to dependent children. The board shall make such rules not inconsistent with law as may be necessary to make such plan conform to the provisions of such federal act and any rules and regulations adopted pursuant thereto. The department shall make reports to such federal agency in the form and nature required by it and in all respects comply with any request or direction of such federal agency which may be necessary to assure the correctness and verification of such reports. * * *

And an examination of the development of the New York State laws setting up a program for dependent children and the history of their amendments reveals a consistent and systematic course of changes following on the heels of Federal statutory or administrative changes. The New York State Legislature has passed a body of legislation designed for tandem action and conformity with Federal law in this area.

In 1968, mindful as always of the economic changes continuing to sweep the country and the continuing and everpressing needs of those desperately dependent for their well-being on government money, Congress set about to review what changes, if any, were to be made in the Social Security Act. As a result of extensive hearings and testimony, Congress passed, *inter alia*, subdivision (23) of 42 U.S.C. §602(a) effective January 2, 1968 as an amend-

ment to Title IV of the Social Security Act (Grants to States for Aid and Services to Needy Families with Children) as follows:

§602; State plans for aid and services to needy families with children; contents; approval by Secretary

(a) A State plan for aid and services to needy families with children must • • •

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted.

Testimony given at hearings before the Congressional Committees drafting this amendment concentrated on the need for improvement of methods calculated to bring payments made to those eligible under the program closer to the cost of the basic needs sought to be covered.⁴⁶ There

46. Under Secretary of U. S. Dep't of Health, Education and Welfare Wilbur Cohen testified, in part, as follows:

But, it is not enough only to require the States to meet need standards. They must assure that these standards reflect current prices. There is no requirement in present Federal law that State standards be kept up to date. In Colorado, the standards for aid to the permanently and totally disabled have not changed since 1956. Those for the blind have not been changed in Massachusetts since 1956. Wisconsin standards used today for all assistance programs were set in 1958, and Ohio's were set in 1959. Only 25 States have standards that have been brought up to date in terms of recent pricing within the last 2 years.

We propose that States be required to update on July 1, 1968, the assistance standards they are now using. From that date on they would have to review these standards annually and modify them with significant changes occurring in the cost of living. *Hearings on H.R. 12080 before the Senate Committee on Finance, 90th Cong., 1st Sess. 259 (1967).*

was extensive evidence that the rapid and significant rise, nationwide, in the cost of living raised serious question of the adequacy of grants being made to the needy families.

Apart from consideration of the knotty problem of basic and sweeping revision of the delivery of welfare aid to the poor in general, it was quickly apparent that in the interim, at least, the states should be required to raise the level of their grants, i.e. monies actually paid out, by a proportion fully reflecting the rise in living costs since the schedules were last established.

There is no doubt, in view of the discussions which took place at the time, that it was the clear intent of Congress, fully mindful of the complexity of the welfare crisis then confronting the states, to effect, at the very least, a real raise in the dollar amount each eligible family would begin to receive. Any state legislative change which followed was not intended by Congress, under any circumstances, to result in a downward revision of dollars actually paid out to any family eligible for such aid.

C. Congressional Knowledge of Relationship Between Poverty and Social Ills

Congress, which has been actively legislating in the field of social legislation for more than thirty years, is probably the best-educated institution existent in the nation with respect to the connection between poverty and those community conditions undesirable and detrimental to life in the United States. As the chief appropriating arm of the government, it also is acutely aware of the changes in cost of living which are, of course, intimately bound up

with the effectiveness of any program aimed at helping people sustain themselves. The governmental agencies charged with administering programs relevant to welfare aid turn out for their own and Congressional use highly developed and detailed information and studies. These are designed to keep Congress accurately informed of the nature of the problems and the effectiveness of programs, including proposals for reform.⁴⁷

Professional writers, sociologists, social workers have also written books and articles which make up an extensive and widely publicized literature on the subject.⁴⁸

47. In addition to those official reports cited elsewhere in this brief, such studies, statements and reports include: PRESIDENT JOHNSON'S STATE OF THE UNION MESSAGE (1964); Annual Economic Reports to the Congress by the President's Council of Economic Advisors of which the Congress' Joint Economic Committee makes continuing studies; Lampman, *The Low Income Population and Economic Growth*, Study Paper No. 12, Joint Economic Committee, 86th Cong., 1st Sess. (1959); U. S. DEPARTMENT OF AGRICULTURE, POVERTY IN RURAL AREAS OF THE UNITED STATES, Agricultural Economics Rep. No. 63 (1964); REPORT OF THE PRESIDENT'S APPALACHIAN REGIONAL COMMISSION, APPALACHIA (1964); U. S. BUREAU OF THE CENSUS, EXTENT OF POVERTY IN THE UNITED STATES: 1959-1966 (Series P-20, No. 54, 1968); U. S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, FAMILY INCOME AND RELATED CHARACTERISTICS AMONG LOW-INCOME COUNTIES AND STATES (1964); PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY (1967); REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (1968); Cohen & Sullivan, *Poverty in the United States*, Health, Education and Welfare Indicators, Feb. 1964.

48. In addition to those books and articles cited elsewhere in this brief are: Lewis, *The Culture of Poverty*, National Conference on Social Welfare (1961); CAPLOVITZ, THE HIGH COST OF POVERTY (1963); MacDonald, *Our Invisible Poor*, The New Yorker, Jan. 19, 1963; MORGAN et al., INCOME AND WELFARE IN THE UNITED STATES (1962); Keyserling et al., *Poverty and Deprivation in the United States, The Plight of Two-Fifths of a Nation*, CONFERENCE ON ECONOMIC PROGRESS (1962); A. PHILIP RANDOLPH INSTITUTE, A FREE-

In addition, the newspapers and other news media, fulfilling their public requirements have given wide and graphic publicity to social and economic conditions in the poverty-stricken part of our national community.⁴⁹

Finally, the Poor Peoples' March literally took the poor and their problems to the steps of Congress.

All this is cited to emphasize what it perhaps all too obvious, namely, that Congress in legislating a requirement for adjustment in the level of payments to reflect the change in cost of living had as its sole and overriding purpose ameliorating the desperate need of people who could not wait for deeper and more far-reaching reform. It was the intention of Congress that any adjustment which a state made to satisfy the Federal requirement of §602(a)(23) would result in a net dollar increase in the amount paid to each eligible family on its AFDC rolls.

DOM BUDGET FOR ALL AMERICANS (1966); National Tuberculosis and Respiratory Disease Assoc., *Poverty and Health*, Parts 1 and 2, Jan. and Feb. 1969; MILLER, RICH MAN, POOR MAN (1964); Downs, *Who Are the Urban Poor?*, Committee for Economic Development Supplementary Paper No. 26 (Oct. 1968).

49. E.g., "Harvest of Shame", CBS Reports, CBS News, Nov. 1960.

POINT II

The passage of Section 131-a of the New York Social Services Law rendered the New York state-plan for AFDC non-compliant with Section 602(a) (23) of Title 42 of the United States Code, part of the Social Security Act.

Section 131-a of the Social Services Law purports to be merely an administrative streamlining of the state's welfare system to counteract "the spiraling rise of public assistance rolls and the expenditures therefore." N.Y. Sess. Laws 1969, Ch. 184, §1. In fact, it has been proven to be a systematic reduction of AFDC grants.

While Respondent Commissioner's original proposals to the Governor regarding welfare reform spelled out a system of flat grants, the bases and schedules upon which the standards of assistance were to be determined were higher than those now called for by §131-a and included items theretofore included as special grants. The Governor, however, "to keep expenditures within available income"⁵⁰ recommended a reduction by approximately 5% across-the-board. While the Legislature modified the Governor's proposed budget by granting greater aid than requested for some items, it reduced public assistance categories, Aid to Families with Dependent Children among them, even further.

This legislative history is recited here to bear out Petitioners' contention that passage of §131-a had as its prime

50. STATE OF NEW YORK, EXECUTIVE BUDGET FOR THE FISCAL YEAR APRIL 1, 1969 to MARCH 31, 1970, at p. 739.

motivation a trimming of costs, with the AFDC program to bear a greater portion of the cost-saving than other state programs.

This is further evidenced by subsequent action of Respondent Commissioner, when on September 24, 1969, he authorized a statewide "special necessity grant" for recipients of aid in the adult categories (Aid to the Aged, Blind and Disabled) in response to severe hardships suffered by them in the welfare cutbacks of that spring. But nothing for children and their parents.

The greatest proportion of the public assistance caseload in New York State is the AFDC roll—approximately 75%. Most beneficiaries of the AFDC program in the State of New York live in New York City: 657,000 out of a statewide total of 887,000 was the 1968 monthly average.

The Commissioner of the New York City Department of Social Services of the City of New York stated unequivocally and publicly, that claims that more than 50% of welfare recipients were receiving more money under the new State schedule of payments were false. He said, "At least 75% of the persons in the City of New York are, in fact, receiving less money now than they were before the new grant system went into effect."⁵¹

So that in the State of New York, a cut-back affecting AFDC payments rather than other forms of aid, results in the greatest possible budgetary gain. It was this fact rather than any other which motivated the designers of the

51. Address by Jack R. Goldberg, "Witness for Survival" Meeting, Sept. 11, 1969.

new system of granting AFDC in New York in the Legislature 1968-1969.

It was common knowledge that since the last re-pricing of the assistance grants as of May 1968, the cost-of-living had increased. From that time until July 1, 1969 the Consumer Price Index in New York City for all items increased 7.08%.⁵²

Clearly then, the effect of §131-a was directly contrary to the effects intended by the Congress in its enactment of 42 U.S.C. 602(a)(23). Even if what was intended by the Congress was a single adjustment made before July 1, 1969 and current only to the date of the adjustment, New York's single adjustment in May 1968 has more than been wiped out by the provisions of §131-a. The fact is that most recipients in New York City (75%)—and therefore in the State—are receiving grants appreciably lower than those they received under the May 1968 adjustment.

POINT III

Levels of AFDC grants had been grossly insufficient to meet the needs of the recipients and the effects of the reductions caused by Section 131-a of the New York Social Services Law have incalculably worsened the plight of the recipients.

According to the Advisory Council on Public Welfare (appointed by the Secretary of Health, Education and Welfare pursuant to the provisions of 42 U.S.C. 1314),

Public assistance payments to needy families and individuals fall seriously below what this Nation has proclaimed to be the "poverty level." Federal par-

52. UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, *Consumer Price Index*.

ticipation in a nationwide program of public assistance payments that are grossly inadequate and widely variable not only perpetuates destitution and intensifies poverty-related problems but also contradicts the Nation's commitments to its poor. * * *

The national average provides little more than half the amount admittedly required by a family for subsistence; in some low-income States, it is less than a quarter of that amount. The low public assistance payments contribute to the perpetuation of poverty and deprivation that extends to future generations.⁵³

This was descriptive of the situation in New York before the enactment of §131-a. Patently, therefore, that section reduced grants already at subsistence to levels of desperation.

A comparison⁵⁴ of the current grants under AFDC in New York City with other relevant standards is revealing in this respect. Using the family of four as a basis for comparison and accounting for increases in the consumer

53. THE ADVISORY COUNCIL ON PUBLIC WELFARE, "HAVING THE POWER, WE HAVE THE DUTY" 15-16 (1966).

54. Based on the following memorandum prepared by Miss Edith Taittonen, Director of Home Economics Service of Community Service Society of New York:

COMPARATIVE DATA ON COST OF LIVING—JULY 1969

I. *Three Standards of Living for an Urban Family of Four Persons*, Spring 1967, U. S. Department of Labor, Bureau of Labor Statistics.

Family of four—man, 38, employed, woman, housewife, boy 13, girl 8

Lower cost standard, metropolitan New York, annual cost of goods and services (excluding tax)

Spring 1967	\$4,919
July 1969	5,488*

II. *A Family Budget Standard, 1963 and Annual Price Survey—Family Budget Costs—October 1968*, Community Council of Greater New York.

prices index until July 1, 1969 the following figures are disclosed:

Family of four—man, 38, employed, woman, housewife, boy 13, girl 8.

Annual cost of goods and services (excluding tax)

October 1968	\$6,629.48
July 1969	6,922.50*

Family of four—woman, 34, housewife, boy 12, girl 9, girl 6.

Annual cost of goods and services

October 1968	\$5,473.00
July 1969	5,714.91*

Family of four—woman, 34, housewife, children 5, 3 and 1.

Annual cost of goods and services

October 1968	\$4,635.80
July 1969	4,840.70*

III. "The Shape of Poverty in 1966", *Social Security Bulletin*, March 1968, p. 4.

Family of four—criteria used by the Federal government as a measure of poverty

March 1967	\$3,335.00
July 1969	3,717.52**

IV. *Department of Social Services*, New York City.

Family of four, one adult, three children, projecting semi-monthly grants and monthly rent of \$93 into annual income.

Oldest child :	Grants effective*** prior to July 1, 1969	Grant effective from July 1, 1969
16 to 21	4180.)	
14 and 15	4060.)	
12 and 13	3940.)	
10 and 11	3820.)	
8 and 9	3652.)	
6 and 7	3508.)	
under 5	3340.)	3612.00

* Consumer Price Index (base 1957-59), New York, New York, used to estimate the increase in the cost.

** Consumer Price Index (base 1957-59), U. S. City Average, used to estimate the increase in cost.

*** Includes cyclical grant of \$100 per person, per year for clothing and house furnishings.

AFDC grant	
(including rent of \$93 per month)	\$3,612.00
Social Security Administration Index	
(poverty level)	3,717.50
Bureau of Labor Statistics	
(New York-Northeastern New Jersey area,	
lower standard, exclusive of taxes)	5,488.00
Community Council of Greater New York	
(Family Budget Standard,	
exclusive of taxes)	6,922.50

It is apparent that the AFDC grant specified by §131-a of the Social Services Law falls below what is generally thought to be a minimum acceptable standard of living. A more refined comparison⁵⁵ confirms this contention. Using two typical AFDC families—a mother with three children under five, and a mother with three children of 6, 9, and 12—and using July 1969, New York City prices for the goods and services required by such families the following annual figures are obtained:

AFDC grant (including rent)	\$3,612.00
AFDC need (mother, three children	
of 5, 3, and 1)	4,840.70
AFDC need (mother, three children	
of 6, 9, and 12)	5,714.91

Families receiving AFDC are also dependent on other publicly-supported, though non-public assistance, programs such as day-care, health services, and supplementary food programs. There is general agreement that these programs do not provide adequately for AFDC families, or other poor persons for that matter.

55. *Ibid.*

According to a survey of the day care population by the Division of Day Care of the New York City Department of Social Services as of May 1969, only 22% of the families and 30% of the children who were receiving day care services were also receiving public assistance. The problem is further compounded by the shortage of facilities for both group day care and family day care.

Programs had been developed in which AFDC mothers were employed to care for several children of other AFDC mothers while the latter were working or being trained. This necessitated the presence of a telephone, and, as will be discussed below, p. 38, there are no funds now permitted welfare recipients for telephones.

Supplementary food programs, such as the Federal surplus food program, are similarly inadequate. The limited variety of foods available and the distances which recipients must travel to collect them present serious problems for such families. For example, before the enactment of §131-a of the Social Services Law, the most prudent course of action for a recipient was to obtain as large a quantity of surplus foods as possible at one time in order to conserve his meager carfare resources. Such a quantity, however, made the use of public mass transportation facilities quite difficult. The problem is currently compounded by the absence in the maximum grants under §131-a of any funds for carfare—even for public transportation.

The problem of health services for the poor is well known.

* * * the poor are less able to afford health services and certainly receive less health care than do non-poor in

spite of a variety of programs (albeit piecemeal) for the financing and delivery of health services to the poor. Maldistribution of health care personnel and facilities and their inefficient organization in relation to health needs is in large part responsible for the problem. * * * Secondly, people from low-socio-economic environments have a significantly higher incidence of health problems than the general population. Subgroups of poor people tend to share similar attitudes and characteristics concerning health which set them apart from the rest of the population—consumer habits, geographic location, abilities to cope with the health institutions and procedures, and so on.⁵⁶

This description of a nationwide problem is particularly true in the City of New York, despite the fact that "New York City has historically devoted a larger percentage of its income to health services than has any other big city in our country."⁵⁷ There has been, in the City of New York, little implementation of federal programs such as Comprehensive Health Care Planning, P.L. 89-749, and Regional Medical Programs—Heart, Cancer and Stroke, P.L. 89-239. The absence of funds for capital construction has had a retarding effect on the implementation of Federal maternity and child-care programs.

The reductions in AFDC grants, pursuant to §131-a, coupled with the inadequacies of supplementary programs have had a devastating impact on AFDC families. The files of *amici* and their affiliated agencies are replete with examples.

56. UNITED STATES DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, DELIVERY OF HEALTH SERVICES FOR THE POOR at 1 (1967).

57. Address by William Glazier, New York State Welfare Conference, November 1968.

— Parents unable to visit children in institutions out of New York City; parents unable to take themselves or their children to clinics or hospitals for needed treatment; mothers unable to visit the employment office every two weeks as required in many cases or to get to schools in which they are enrolled; there is no transportation allowance in the fixed grant under §131-a.

— Children unable to attend school because they don't have adequate clothing; the student nurse needing shoes and uniforms. Not only has the special grant for clothing, which had heretofore supplemented the recurring family need for children's clothing, been abolished, but the amount included for clothing in the present §131-a computation is grossly inadequate.

— Families having a decent low-rent apartment but no furniture, or having to use their old vermin-infested furniture: there is no furniture or fumigation allowance in the fixed grant under §131-a.⁵⁸

— Mothers with jobs, but no funds for babysitters or for their own lunch; seriously ill persons with no funds for special diets or telephones to get prompt medical attention: there are no allowances for such items in the fixed grant under §131-a.

Many families known to *amici* and their affiliates try to find the funds within the fixed grant. The only conceivably flexible item is food—but how flexible is 66 cents per day per person? “Even a Food Expert Can Stretch a Welfare Budget Only So Far” was the headline of an article in the *New York Times*⁵⁹ by Craig Claiborne. The flexibility is

58. This often results in families having to remain in hotel or other furnished accommodations at additional public expense, and provides them with no equity in any property.

59. July 31, 1969, p. 30.

further limited by the poor being unable to buy in volume, resulting in their having to pay high prices for food.⁶⁰ And if the food money is used for some of the other necessary items, malnutrition becomes a real possibility.

Conclusion

The State of New York, in enacting §131-a of the Social Services Law, did not comply with the requirements of 42 U.S.C. 602(a) (23) that States adjust the amounts used to determine the needs of individuals "to reflect fully changes in living costs since such amounts were established." The decision of the court below should be reversed.

Respectfully submitted,

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60. New York Times, June 12, 1966, §1, p. 56.